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4 MARKUP ON H.R. 6, THE DOMESTIC PROSPERITY AND GLOBAL FREEDOM

5 ACT

6 WEDNESDAY, APRIL 9, 2014

7 House of Representatives,

8 Subcommittee on Energy and Power

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:09 a.m.,

12 in Room 2123 of the Rayburn House Office Building, Hon. Ed

13 Whitfield [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Whitfield, Scalise,

15 Hall, Shimkus, Pitts, Terry, Latta, Cassidy, Olson, McKinley,

16 Gardner, Kinzinger, Griffith, Upton (ex officio), Rush,

17 McNerney, Tonko, Green, Doyle, Barrow, Matsui, Christensen,

18 Castor, and Waxman (ex officio).

19 Staff present: Nick Abraham, Legislative Clerk; Gary
20 Andres, Staff Director; Charlotte Baker, Deputy
21 Communications Director; Mike Bloomquist, General Counsel;
22 Sean Bonyun, Communications Director; Matt Bravo,
23 Professional Staff Member; Allison Busbee, Policy
24 Coordinator, Energy and Power; Sydne Harwick, Legislative
25 Clerk; Tom Hassenboehler, Chief Counsel, Energy and Power;
26 Brittany Havens, Legislative Clerk; Kirby Howard, Legislative
27 Clerk; Peter Kielty, Deputy General Counsel; Jason Knox,
28 Counsel, Energy and Power; Ben Lieberman, Counsel, Energy and
29 Power; Brandon Mooney, Professional Staff Member; Tom Wilbur,
30 Digital Media Advisor; Michelle Ash, Democratic Chief
31 Counsel, Commerce, Manufacturing and Trade; Jeff Baran,
32 Democratic Senior Counsel; Jen Berenholz, Democratic Chief
33 Clerk; Greg Dotson, Democratic Staff Director, Energy and
34 Environment; and Caitlin Haberman, Democratic Policy Analyst.

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35 H.R. 6

36 Mr. {Whitfield.} The subcommittee will come to order.

37 At the conclusion of opening statements yesterday, the chair

38 called up H.R. 6, and the bill was open for amendment at any

39 point, and keeping with our custom, we will take up

40 bipartisan amendments first. And so are there any bipartisan

41 amendments to the bill? Seeing none--maybe there won't be

42 any amendments at all. So are there any amendments to the

43 bill?

44 Mr. {Rush.} Mr. Chairman, I have an amendment at the

45 desk.

46 Mr. {Whitfield.} The gentleman is recognized. Report

47 the amendment, please.

48 The {Clerk.} Amendment to H.R. 6 offered by Mr. Rush of

49 Illinois.

50 [The amendment of Mr. Rush follows:]

51 ***** INSERT 1 *****

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52 Mr. {Whitfield.} And the gentleman is recognized for 5
53 minutes in support of his amendment.

54 Mr. {Rush.} I want to thank you, Mr. Chairman. Mr.
55 Chairman, we have heard a lot of rhetoric about the need to
56 pass this bill in order to help the Ukraine and our European
57 allies deal with Russia. And while I believe that is an
58 important consideration, I am not convinced that this bill
59 will get any natural gas to Europe any time soon.

60 The relatives at LNG from the United States is expected
61 to go to Asia. In fact, currently there are no export
62 facilities anywhere in the Continental United States that are
63 able to ship out LNG exports. The first export terminal
64 would not begin initial operation until late 2015, and export
65 capacity would not ramp up at other facilities with
66 authorization to export LNG until at least 2017 or 2018. It
67 is also worth pointing out that Ukraine does not currently
68 have any facilities capable of employing or regasifying LNG.
69 So when these exports wrap up 7 years from now, they will not
70 be going directly to Ukraine. Additionally, Mr. Chairman,
71 the U.S. export terminals most likely to be constructed
72 generally have already entered into contractual commitments
73 to supply entities in Asia where natural gas prices are
74 higher than those that are in Europe.

75 Mr. Chairman, my amendment is simply about truth in
76 advertising. The Bible says know ye the truth and the truth
77 shall set you free. The amendment doesn't affect any of Mr.
78 Gardner's provisions but rather simply requires companies
79 exporting LNG to come clean as far as where those exports are
80 going. That way we would be able to find out whether this is
81 really going to help the Ukraine and our European allies or
82 if it is just going to lower the cost for manufacturers in
83 China, in India and in Korea.

84 Mr. Chairman, my amendment leaves DOE with the
85 flexibility to determine the timing of the public disclosure.
86 Currently when DOE issues a final approval and establishes a
87 number of conditions and the requirement to publically
88 disclose the destination or destinations of the LNG export,
89 then can be added as a condition. LNG export projects are
90 multi-billion dollar endeavors, and export terminals do not
91 get built without the exporter entering into long-term
92 contracts way up front. Anyone exporting LNG is going to
93 know where it is going, and my amendment just makes sure that
94 the American people know where it is going also. This
95 amendment does not fix all the problems that are associated
96 with this bill, but I think that it is a common-sense
97 improvement. We should be able to support this basic step to
98 enhance transparency. So I urge all of my colleagues on both

99 sides of the aisle to support my amendment.

100 Mr. Chairman, with that, I yield back unless somebody
101 wants the time. I yield to the gentleman from California.

102 Mr. {Waxman.} Just so I could get a clarification, no
103 one is required to release commercial contracts or any
104 confidential business information, just the destination of
105 the LNG exports, is that right? Is that correct?

106 Mr. {Rush.} Yes.

107 Mr. {Waxman.} So you are not, by this amendment, by
108 virtue of this amendment you are not dictating or telling
109 anybody what they have to do, only disclosing where the LNG
110 is being exported. And the argument that I think you have
111 made which I think is a very strong one is if we are really
112 going to help the Ukraine or people in Europe who are under
113 the gun from the Russians by their using natural gas prices
114 as a political lever. This would at least let us know if LNG
115 is going to them or whether it is just going to Asia because
116 it is just profitable where they are paying more money. It
117 is just simply giving information to Congress and the public,
118 is that right?

119 Mr. {Rush.} That is correct.

120 Mr. {Waxman.} Okay. Well, I certainly support your
121 amendment.

122 Mr. {Whitfield.} The gentleman's time has expired. At

123 this time I recognize the gentleman from Colorado, Mr.
124 Gardner, for 5 minutes.

125 Mr. {Gardner.} Thank you, Mr. Chairman, and to my
126 colleague from Illinois I would say that I want to work with
127 you and this bipartisan initiative and legislation. I am
128 prepared to accept the amendment, and I will give you the
129 reasons. I think working together on this we can actually
130 promote the interests of our allies and certainly improve
131 geopolitical security around the world. Opposing this
132 legislation is like hanging up on a 911 call from our friends
133 and allies. But H.R. 6 in no way, shape or form would affect
134 the Secretary of Energy's authority under Section 3(a) of the
135 Natural Gas Act to attach terms and conditions to the order
136 that the Secretary finds necessary or appropriate to protect
137 the public interest.

138 In fact, Section 590.202(b) as I have right here of the
139 regulations, DOE regulations, already requires public
140 disclosure of the transaction's specific information. Those
141 items include the scope of the project, including the volumes
142 of natural gas involved; the source and security of the
143 natural gas supply; identification of all participants in the
144 transaction; the terms of the transaction; the provisions of
145 the export contract, including the price and the volume
146 requirements; the lack of a national or regional need for the

147 gas; and the potential environmental impacts.

148 So H.R. 6 would not affect the Secretary's authority to
149 continue to apply these kinds of conditions. Recent FDA and
150 non-FDA applications have been granted with conditions that
151 require the public disclosure of export destinations and
152 contracted details in semi-annual reports. So it is already
153 in the regulations. This amendment reflects the regulations,
154 and I would be prepared to accept the amendment and continue
155 to work in a bipartisan fashion to adopt this legislation.

156 Mr. {Rush.} Will the gentleman yield?

157 Mr. {Gardner.} Yield, yes.

158 Mr. {Rush.} I certainly appreciate the gentleman's
159 acceptance and willingness to work with me on this amendment,
160 on this bill. There are two other major issues that I do
161 have with the bill, and I am not prepared to vote in favor of
162 the bill right now. But I am looking forward and even to
163 work with the gentleman so that maybe we--not only on this
164 amendment but some of the other issues that I might have
165 regarding that. I want to thank the gentleman again.

166 Mr. {Gardner.} Thank the gentleman. Again, I think it
167 just shows the good-faith efforts on this side to try to make
168 sure that we work on legislation that reflects the bipartisan
169 intent of the legislation. I would talk just briefly about
170 how important it is that we recognize the call that we have

171 received from our allies. Ukraine, Hungary, other nations
172 who have talked about the need for additional security
173 alternatives to energy resources. LNG exports from the
174 United States could fill that need and in fact creating a
175 great deal of jobs here at home.

176 I think the comments have been made, too, about this
177 legislation, and I believe the gentleman from Illinois made
178 this comment about the bill, talking about the length of time
179 it would take to actually construct an LNG export facility
180 and the time it would take for a trade partner to receive
181 that LNG. But we have heard testimony, we have had letters,
182 we have received word through many of our diplomatic friends,
183 friends in the diplomatic community, that approving this
184 legislation today would send a strong market signal today
185 that we have help on the way. They would not be reliant upon
186 aggressive nations like Russia for their energy, that they
187 would send a market signal, knowing that our energy
188 superpower capabilities is there for our allies. And that is
189 the important part of this legislation, to make sure that we
190 do not only create additional jobs here but that we can
191 provide an outlet for energy around the world so that they
192 aren't reliant on nations like Russia for their energy
193 supplies.

194 So I have remained concerned with testimony from the

195 Secretary of Energy who said that there is a new G-7 process
196 involved that could possibly delay it even further because
197 they will determine in part the public interest statements or
198 determinations through that new G-7 process. So I think this
199 is a much-needed step in the right direction as we bring
200 energy security to the world through American job creation,
201 and with that--

202 Mr. {Shimkus.} Will the gentleman yield his last
203 minute? And I just want to reiterate a lot of people--you
204 know, the country of Lithuania, which I have been focused on
205 for many years, is building a terminal to receive LNG now.
206 The ship is moving across the oceans being tested so it can
207 land at the port of Klaipeda. The pipelines are already
208 being built. So for people to say that this is not important
209 to our friends in the newly free Eastern European Bloc, is
210 just not accurate. They are begging for this. They are
211 begging for these signals. They are making the capital
212 investments. This is really a blow for freedom for these
213 peoples' energy security. I applaud the bill. I would just
214 reiterate for our NATO allies and hopefully soon-to-be
215 additional NATO allies that this is a big, big deal, and I
216 want to thank my colleague from Colorado. I yield back.

217 Mr. {Gardner.} Yield back to the chairman.

218 Mr. {Whitfield.} The gentleman's time is expired. So

219 we are prepared to accept the amendment.

220 Mr. {Waxman.} Mr. Chairman?

221 Mr. {Whitfield.} What purpose does the gentleman from
222 California--the gentleman is recognized for 5 minutes.

223 Mr. {Waxman.} Thank you, Mr. Chairman. I thank Mr.
224 Gardner for accepting this amendment. I think that is a very
225 constructive move on the part of the author of the overall
226 bill, but I do want to underscore what Mr. Rush said. There
227 are other concerns that we have, and I note that there will
228 be amendments brought up in the Full Committee to deal with
229 matters such as whether we are going to be making problems
230 for our own economy by going as broadly as the Gardner bill
231 would have us do.

232 We want to ensure that American consumers and
233 manufacturers are not harmed by unlimited LNG exports. But I
234 do want to correct the record. Secretary Moniz did not say
235 that DOE is waiting for action by the G-7 partners and is
236 therefore going slowly in agreeing to the applications for
237 export of LNG. In fact, what he said explicitly that this
238 was not the case, and he made that statement around five
239 times. He explained that DOE is doing just what we would
240 expect them to do, talk with our allies about policies that
241 affect our international relationships and our energy
242 security. So the claim that anything is being held up by the

243 G-7 conversations is not accurate. It is a
244 mischaracterization--

245 Mr. {Gardner.} Will the gentleman yield?

246 Mr. {Waxman.} --of the Secretary's view. Yes,
247 certainly.

248 Mr. {Gardner.} When I asked the Secretary if the public
249 determination decision would be made in part on the G-7
250 process, it was very clear that he said that it would. So
251 that was what the Secretary testified before this committee.

252 Mr. {Waxman.} I think what the Secretary--reclaiming my
253 own time--said that it is a factor but that is not
254 determining the actions of the DOE, and they are not holding
255 up any of those applications.

256 The DOE does have a process for approving LNG exports.
257 Many of us think that that process is adequate, and we have
258 concerns about opening up the LNG exports as fully as this
259 bill would do.

260 We will have amendments at the Full Committee, and if
261 the gentleman--

262 Mr. {Doyle.} Will the gentleman yield?

263 Mr. {Waxman.} If I could complete my statement? If the
264 gentleman, author of the bill, wishes to discuss some of
265 those amendments with us before we get to Full Committee, we
266 would be happy to do that and explore it further. Who asked-

267 -

268 Mr. {Doyle.} Will the gentleman yield? Down here,
269 Henry.

270 Mr. {Waxman.} Okay, yes.

271 Mr. {Doyle.} In order to save the committee time, I
272 just want to say I appreciate that Mr. Rush's amendment has
273 been accepted. I would say to my friend from Colorado who
274 said not voting for this bill would be like hanging up on a
275 911 call, actually, the reality is we would be putting
276 whoever made that 911 call on hold for about 2 years. But we
277 wouldn't be hanging up on the phone.

278 The fact of the matter is eight permits have been
279 approved already. The very first one that is going to come
280 on line apparently has contracts to send that LNG to
281 Southeast Asia. I am not sure that this committee can tell
282 any company that gets a permit approved where they have to
283 take their LNG. So I would hope some of it gets to our
284 allies in Europe, but the fact of the matter is, eight are
285 processed. DOE seems to be processing permit applications
286 every other month, and while, you know, I have no problem
287 with exporting LNG, this bill isn't going to speed up the
288 process any more than it has already taken place. And it is
289 not going to guarantee that the LNG gets to the countries
290 that we want it to get to. And as Mr. Waxman said, we do

291 have some concerns from American manufacturers and chemical
292 companies who are deeply concerned that DOE take a thoughtful
293 approach to LNG exports so as not to disadvantage American
294 manufacturing which is starting to come back to this country
295 from other countries because of the advantage we have in
296 energy, and we don't want to lose that advantage.

297 So I think these are legitimate concerns, and we will
298 have more to offer at Full Committee. And I thank the
299 gentleman for yielding.

300 Mr. {Waxman.} Well, I am happy to have yielded to you,
301 and as I understand your comments, you are expressing the
302 point of view that there is not a division as to whether we
303 want to help the Ukraine and our European Allies. But we
304 don't need to open the door so widely as this bill would do
305 to allow exports of LNG all over the world and primarily to
306 Asia in the characterization that we are helping the Ukraine.
307 In fact, we are helping the LNG exports, whether there had
308 been a problem in the Ukraine or not.

309 I thank the gentleman for his comments, and I certainly
310 will support the Rush amendment. But I am not prepared to
311 vote for the bill in final passage in its present form. And
312 I wanted to put that on the record. I yield back my time.

313 Mr. {Whitfield.} The gentleman yields back. At this
314 time the chair recognizes the gentleman from Virginia, Mr.

315 Griffith, for 5 minutes.

316 Mr. {Griffith.} Strike the last word. Thank you, Mr.
317 Chairman. I certainly support the bill and think it is a
318 great bill that will help the United States and our allies.
319 That being said, I have some concerns about the amendment,
320 and I want to make sure maybe either between now and the time
321 we get to Full Committee either Congressman Rush or staff can
322 answer my concerns. I was in a meeting this morning that I
323 was fortunate to be at, and the Romanians raised the question
324 of how do we get the gas to the Republic of Moldova. And so
325 I want to make sure that on line eight, the word destinations
326 would allow somebody the flexibility to say it is our intent
327 that we are going to get it to this point, but it might have
328 to go through Greece and Romania to get there because right
329 now some of that infrastructure is not built. I just want to
330 make sure we are not overly restrictive because some of our
331 friends that we want to get this natural gas don't have the
332 port to put it in now or they are landlocked and they need
333 somebody else's port to get it to. So the end destination
334 might be Ukraine, but it might have to pass through a couple
335 of countries to get there. So if we could just take a look
336 at that and make sure that my fears are allayed before we get
337 to the Full Committee, I certainly will support the amendment
338 with that in mind and support the bill. And I will--

339 Mr. {Scalise.} Would the gentleman yield?

340 Mr. {Griffith.} The gentleman--Mr. Scalise from
341 Louisiana.

342 Mr. {Scalise.} Thank you, Mr. Griffith, for yielding
343 and for the points that he brings up because we were both in
344 that same meeting. A number of countries that are friends of
345 the United States have a real interest in the United States'
346 exporting liquefied natural gas. And one thing they did
347 bring up and Cheniere facility is the only facility that is
348 currently moving forward and actually getting ready to be in
349 a position to export. You know, they have already had an
350 impact on the world markets, if you look at global energy
351 markets. Just the fact that that facility is being built and
352 starting to engage in contracts with other countries has had
353 a positive impact on the world market and helped the United
354 States' geopolitical position to get to assist our countries,
355 our neighboring countries, our friendly countries around the
356 world who have an interest and have an independence from
357 Russia. And you have already seen Russia react to this as
358 well. And we need to continue moving down that road and this
359 process that exists is very cumbersome, doesn't make a lot of
360 sense and this bill removes a lot of those uncertainties,
361 that 911 call that my colleague from Colorado who is bringing
362 this bill forward talked about is a real benefit that not

363 only America gets, tremendous benefit to America from this
364 legislation, but also tremendous benefit to our allies in the
365 world. And just the movement of Cheniere is already having a
366 positive impact on world energy markets. It is good for
367 America's energy security and it is also good for America's
368 geopolitical position to be in a better position to help our
369 friends so that they don't have to be dependent on nations
370 that they don't like or don't like them. So I will yield
371 back.

372 Mr. {Gardner.} Would the gentleman yield?

373 Mr. {Griffith.} I yield.

374 Mr. {Gardner.} Thank you, and I think just to talk
375 about some of the testimony before this committee, Ambassador
376 Carlos Pasquale, the State Department's Special Envoy and
377 Coordinator for International Energy Affairs has stated that
378 expediting U.S. LNG export applications, and I quote, sends a
379 clear signal that the global gas market is changing, that
380 there is the prospect of much greater supply coming from
381 other parts of the world. Hungary's Ambassador-at-Large for
382 Energy Security, Anita Orban, who testified before the
383 committee has stated that, ``It is simply not true that
384 lifting the natural gas export ban today would not have an
385 immediate effect in Europe. It would immediately change the
386 business calculus of infrastructure investments and send an

387 extremely important message of strategic reassurance to the
388 region which currently feels more threatened than at any time
389 since the Cold War.''

390 I thank the gentleman, yield back.

391 Mr. {Whitfield.} The gentleman yields back the balance
392 of his time. Is there further discussion on the Rush
393 amendment? If not, even though it has been accepted, I am
394 going to ask for a vocal voice vote.

395 So all those in favor of the Rush amendment shall
396 signify by saying aye.

397 Those opposed, no.

398 The ayes have it, and the amendment is agreed to.

399 Are there further amendments to the bill? Seeing none,
400 the question would not occur on forwarding H.R. 6 to the Full
401 Committee as amended.

402 All those in favor of H.R. 6 say aye.

403 Those opposed, no.

404 The ayes certainly appear to have it.

405 Mr. {Waxman.} Roll call vote.

406 Mr. {Whitfield.} Okay. A roll call vote has been
407 requested. The Clerk will call the roll.

408 The {Clerk.} Mr. Scalise?

409 Mr. {Scalise.} Aye.

410 The {Clerk.} Mr. Scalise votes aye.

411 Mr. Hall?
412 Mr. {Hall.} Aye.
413 The {Clerk.} Mr. Hall votes aye.
414 Mr. Shimkus?
415 Mr. {Shimkus.} Aye.
416 The {Clerk.} Mr. Shimkus votes aye.
417 Mr. Pitts?
418 Mr. {Pitts.} Aye.
419 The {Clerk.} Mr. Pitts votes aye.
420 Mr. Terry?
421 Mr. {Terry.} Aye.
422 The {Clerk.} Mr. Terry votes aye.
423 Mr. Burgess?
424 [No response.]
425 The {Clerk.} Mr. Latta?
426 Mr. {Latta.} Aye.
427 The {Clerk.} Mr. Latta votes aye.
428 Mr. Cassidy?
429 Mr. {Cassidy.} Aye.
430 The {Clerk.} Mr. Cassidy votes aye.
431 Mr. Olson?
432 Mr. {Olson.} Aye.
433 The {Clerk.} Mr. Olson votes aye.
434 Mr. McKinley?

435 Mr. {McKinley.} Aye.
436 The {Clerk.} Mr. McKinley votes aye.
437 Mr. Gardner?
438 Mr. {Gardner.} Aye.
439 The {Clerk.} Mr. Gardner votes aye.
440 Mr. Pompeo?
441 [No response.]
442 The {Clerk.} Mr. Kinzinger.
443 Mr. {Kinzinger.} Aye.
444 The {Clerk.} Mr. Kinzinger votes aye.
445 Mr. Griffith?
446 Mr. {Griffith.} Aye.
447 The {Clerk.} Mr. Griffith votes aye.
448 Mr. Barton?
449 Mr. {Barton.} Aye.
450 The {Clerk.} Mr. Barton votes aye.
451 Mr. Upton?
452 The {Chairman.} Aye.
453 The {Clerk.} Mr. Upton votes aye.
454 Mr. Rush?
455 Mr. {Rush.} Aye.
456 The {Clerk.} Mr. Rush votes aye.
457 Mr. {Rush.} No. Sorry.
458 The {Clerk.} Mr. Rush votes no.

459 Mr. McNerney?
460 Mr. {McNerney.} No.
461 The {Clerk.} Mr. McNerney votes no.
462 Mr. Tonko?
463 Mr. {Tonko.} No.
464 The {Clerk.} Mr. Tonko votes no.
465 Mr. Yarmuth?
466 [No response.]
467 The {Clerk.} Mr. Engel?
468 [No response.]
469 The {Clerk.} Mr. Green?
470 Mr. {Green.} No.
471 The {Clerk.} Mr. Green votes no.
472 Mrs. Capps?
473 Mrs. {Capps.} No.
474 The {Clerk.} Mrs. Capps votes no.
475 Mr. Doyle?
476 Mr. {Doyle.} No.
477 The {Clerk.} Mr. Doyle votes no.
478 Mr. Barrow?
479 Mr. {Barrow.} No.
480 The {Clerk.} Mr. Barrow votes no.
481 Ms. Matsui?
482 Ms. {Matsui.} No.

483 The {Clerk.} Ms. Matsui votes no.
484 Ms. Christensen?
485 Dr. {Christensen.} No.
486 The {Clerk.} Ms. Christensen votes no.
487 Ms. Castor?
488 Ms. {Castor.} No.
489 The {Clerk.} Ms. Castor votes no.
490 Mr. Waxman?
491 Mr. {Waxman.} No.
492 The {Clerk.} Mr. Waxman votes no.
493 Chairman Whitfield?
494 Mr. {Whitfield.} Aye.
495 The {Clerk.} Chairman Whitfield votes aye.
496 Mr. {Whitfield.} Are all the votes recorded? Does
497 anyone seek recognition to vote? It appears that everyone
498 has voted. Will the Clerk report the result?
499 The {Clerk.} Mr. Chairman, on that vote there were 15
500 ayes and 11 nays.
501 Mr. {Whitfield.} Fifteen ayes and 11 nays, so the bill
502 as amended is agreed to. And without objection, the staff is
503 authorized to make technical and conforming changes to the
504 legislation approved by this Subcommittee today, so ordered
505 and without objection, the committee stands adjourned.
506 [Whereupon, at 10:31 a.m., the Subcommittee was

507 adjourned.]